

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

**CIVIL NO. 1:06CV85
(1:03CR4)**

DANNY CARLTON GRIPPER,)
)
Petitioner,)
)
vs.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)
)

)

O R D E R

THIS MATTER is before the Court on the Petitioner's motion for an extension of time in which to file response to the Government's motion for summary judgment. Petitioner also files a "Motion for Judgement (sic) in the Affirmative for Effect of Failure to Deny, pursuant to Rule 8(d) of the Rules of Civil Procedure" which, in effect, asks the Court to grant his § 2255 petition for the Government's failure to timely respond thereto as directed by the Court.

For the reasons stated in Petitioner's motion for an extension of time and for cause shown, that motion will be allowed. However, as to Petitioner's "motion for judgment," the Respondent has now filed its

response to Petitioner's § 2255 motion and has moved for summary judgment, and the Court has granted the Respondent's motion for leave to file such pleadings out of time. **See Order, filed November 2, 2007.** Therefore, the Petitioner's motion is moot.

IT IS, THEREFORE, ORDERED that the Petitioner's motion for an extension of time in which to respond to the Government's motion for summary judgment is **ALLOWED**, and Petitioner has to and including December 28, 2007, to file such response.

IT IS FURTHER ORDERED that Petitioner's "Motion for Judgement in the Alternative" is **DENIED** as moot.

Signed: November 14, 2007



Lacy H. Thornburg
United States District Judge

